

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1834

Introduced by Assembly Member Solorio
(Coauthor: Senator Pavley)

February 12, 2010

An act to amend Section 7027.5 of the Business and Professions Code, and to add Part 2.4 (commencing with Section 10570) to Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1834, as amended, Solorio. Rainwater Capture Act of 2010.

(1) Under existing law, the State Water Resources Control Board (*state board*) and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES) permit program and the Porter-Cologne Water Quality Control Act. Existing law authorizes a regional water management group, as defined, to adopt an integrated regional water management plan that addresses specified matters. Existing law authorizes a city, county, or special district to develop, jointly or individually, stormwater resource plans that meet certain standards.

This bill would enact the Rainwater Capture Act of 2010, which would authorize a landowner to install, maintain, and operate, on the landowner's property, a rainwater capture system meeting specified requirements. The bill would require the ~~State Water Resources Control~~

~~Board~~ *state board* to initiate a stakeholder process to develop recommendations for policies for state and local agencies to encourage and facilitate the *voluntary* installation and use of rainwater capture systems, as defined, for specified nonpotable uses, and capture of stormwater by public agencies. The bill would require the *state board* to publish those recommendations on its Internet Web site by December 31, 2011. The bill would require the *state board*, if the stakeholder process results in recommendations for building standards, to submit those recommendations to the California Building Standards Commission and the Department of Housing and Community Development by December 31, 2011, and would require the commission and the department to consider the recommendations for building standards for adoption in a specified update of the California Building Standards Code by July 1, 2013.

The bill would authorize the *state board* to adopt policies or guidelines related to *voluntary* rainwater and stormwater capture if the *state board* makes a specified finding.

(2) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensing and regulation of contractors. Existing law authorizes a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a swimming pool, spa, or hot tub, an outdoor cooking center, or an outdoor fireplace, if certain conditions are met. Under existing law, a violation of these provisions and related provisions of existing law is grounds for disciplinary action.

This bill would additionally authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is part of a landscape irrigation system that the contractor is supervising. The bill would authorize a landscape contractor holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 7027.5 of the Business and Professions Code is amended to read:

7027.5. (a) A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor.

(b) Notwithstanding any other provision of this chapter, a landscape contractor working within the classification for which the license is issued may enter into a prime contract for the construction of any of the following:

(1) A swimming pool, spa, or hot tub, provided that the improvements are included within the landscape project that the landscape contractor is supervising and the construction of any swimming pool, spa, or hot tub is subcontracted to a single licensed contractor holding a Swimming Pool (C-53) classification, as set forth in Section 832.53 of Title 16 of the California Code of Regulations, or performed by the landscape contractor if the landscape contractor also holds a Swimming Pool (C-53) classification. The contractor constructing the swimming pool, spa, or hot tub may subcontract with other appropriately licensed contractors for the completion of individual components of the construction.

(2) An outdoor cooking center, provided that the improvements are included within a residential landscape project that the contractor is supervising. For purposes of this subdivision, “outdoor cooking center” means an unenclosed area within a landscape that is used for the cooking or preparation of food or beverages.

(3) An outdoor fireplace, provided that it is included within a residential landscape project that the contractor is supervising and is not attached to a dwelling.

(4) A rainwater capture system, as defined in Section 10572 of the Water Code, provided that the system is included within a landscape irrigation system that the contractor is supervising.

(c) (1) Work performed in connection with a landscape project specified in paragraph (2), (3), or (4) of subdivision (b) that is outside of the field and scope of activities authorized to be performed under the Landscape Contractor classification (C-27), as set forth in Section 832.27 of Title 16 of the California Code

1 of Regulations, may only be performed by a landscape contractor
2 if the landscape contractor also either holds an appropriate specialty
3 license classification to perform the work or is licensed as a general
4 building contractor. If the landscape contractor neither holds an
5 appropriate specialty license classification to perform the work
6 nor is licensed as a general building contractor, the work shall be
7 performed by a specialty contractor holding the appropriate license
8 classification or by a general building contractor performing work
9 in accordance with the requirements of subdivision (b) of Section
10 7057.

11 (2) Notwithstanding paragraph (1), a landscape contractor
12 performing work under the Landscape Contractor classification
13 (C-27), as set forth in Section 832.27 of Title 16 of the California
14 Code of Regulations, may design and install all exterior
15 components of a rainwater capture system, as defined in Section
16 10572 of the Water Code, that are not a part of, or attached to, a
17 structure.

18 (d) A violation of this section shall be cause for disciplinary
19 action.

20 SEC. 2. Part 2.4 (commencing with Section 10570) is added
21 to Division 6 of the Water Code, to read:

22
23 PART 2.4. RAINWATER CAPTURE ACT OF 2010
24

25 10570. This part shall be known, and may be cited, as the
26 Rainwater Capture Act of 2010.

27 10571. The Legislature finds and declares all of the following:

28 (a) As California has grown and developed, the amount of
29 stormwater flowing off of buildings, parking lots, roads, and other
30 impervious surfaces into surface water streams and flood channels
31 has increased, thereby reducing water allowed to infiltrate into
32 groundwater aquifers and increasing water and pollution flowing
33 to the ocean. At the same time, recurring droughts and water
34 shortages in California have made water conservation efforts a
35 priority.

36 (b) Historical patterns of precipitation are predicted to change,
37 with two major implications for water supply. First, an increasing
38 amount of California's water is predicted to fall not as snow in the
39 mountains, but as rain in other areas of the state. This will likely
40 have a profound and transforming effect on California's hydrologic

1 cycle and much of that water will no longer be captured by
2 California's reservoirs, many of which are located to capture
3 snowmelt. Second, snowmelt, and runoff resulting from snowmelt,
4 are predicted to occur progressively earlier in the year, and
5 reservoirs operated for flood control purposes must release water
6 early in the season to protect against later storms, thereby reducing
7 the amount of early season snowmelt that can be stored.

8 (c) Rainwater, captured and properly managed, can contribute
9 significantly to local water supplies by percolation into the ground
10 to recharge groundwater aquifers, thereby increasing available
11 supplies of drinking water. In addition, the use of rainwater through
12 onsite storage and use for landscape irrigation significantly reduces
13 the demand for potable water, contributing to the statutory objective
14 of a 20-percent reduction in urban per capita water use in California
15 by December 31, 2020.

16 (d) Expanding reliance on rainwater capture for water supply
17 needs will require efforts at all levels, from individual landowners
18 to state and local agencies and watershed managers.

19 *10571.5. Nothing in this part shall be construed to do either*
20 *of the following:*

21 *(a) Alter or impair any existing rights.*

22 *(b) Change existing water rights law.*

23 *10572. Unless Solely for the purposes of this part, and unless*
24 *the context otherwise requires, the following definitions govern*
25 *the construction of this part:*

26 *(a) "Agricultural lands" has the same meaning as defined*
27 *pursuant to Section 56016 of the Government Code.*

28 *(b) "Developed or developing lands" means lands that have*
29 *one or more of the characteristics described in subparagraphs (A)*
30 *to (C), inclusive, of paragraph (4) of subdivision (b) of Section*
31 *56375.3 of the Government Code.*

32 ~~(a)~~

33 *(c) "Rainwater" means rain or snowmelt that has not entered*
34 *an off-site storm drain system or channel, a flood control*
35 *channel, or any other stream channel, and has not previously been*
36 *put to beneficial use.*

37 ~~(b) "Rainwater capture system" means a facility designed to~~

38 *(d) "Rainwater capture system" means a facility on developed*
39 *or developing lands, but not on agricultural lands, designed to*
40 *capture and retain rainwater flowing off of a building, parking lot,*

1 road, or any other manmade, impervious surface, for either
2 subsequent outdoor, nonpotable uses or infiltration into a
3 groundwater aquifer.

4 (e)

5 (e) “Stormwater” means temporary surface water and snowmelt
6 runoff generated by immediately preceding storms. This definition
7 shall be interpreted consistent with the definition of “stormwater”
8 in Section 122.26 of Title 40 of the Code of Federal Regulations,
9 as that section may be amended.

10 10573. (a) A landowner may install, maintain, and operate,
11 on the landowner’s property, a rainwater capture system to supply
12 water for outdoor, nonpotable uses on the property where the
13 rainwater was captured or for groundwater recharge. If a local
14 agency has a program to promote rainwater or stormwater capture
15 and use, the landowner shall comply with applicable requirements
16 of the program, including, but not limited to, a stormwater resource
17 plan adopted pursuant to Part 2.3 (commencing with Section
18 10560).

19 (b) Financing pursuant to Chapter 29 (commencing with Section
20 5898.10) of Part 3 of Division 7 of the Streets and Highways Code
21 shall be available to landowners who install a rainwater capture
22 system, if a local agency authorizes and arranges that financing
23 consistent with the requirements of that chapter.

24 (c) This section shall not be construed to impose a duty on, or
25 impair the authority of, a local agency to establish or implement
26 a program for rainwater capture in its jurisdiction.

27 10574. (a) It is the intent of the Legislature that the use of
28 rainwater for nonpotable uses should not be constrained by ~~water~~
29 ~~quality requirements for potable water use~~ *drinking water standards*
30 *in Title 22 of the California Code of Regulations, but shall fully*
31 *comply with water quality requirements for nonpotable water*
32 *pursuant to the Porter-Cologne Water Quality Control Act*
33 *(Division 7 (commencing with Section 13000)).*

34 (b) Notwithstanding subdivision (a), this part does not affect
35 any *additional state, regional, or local* requirements for the
36 protection of groundwater quality from contamination resulting
37 from stormwater drainage.

38 10575. (a) It is the intent of the Legislature to encourage
39 collaboration among state, regional, and local agencies with
40 responsibilities that include, but are not limited to, building

1 standards, flood protection, water supply, or land use to promote
2 greater capture of rainwater and stormwater for water supply
3 purposes.

4 (b) It is the intent of the Legislature that the California Building
5 Standards Code, including the California Green Building Standards
6 Code (Part 11 (commencing with Section 101) of Title 24 of the
7 California Code of Regulations), encourage and provide building
8 standards guidelines for the installation and use of rainwater
9 capture systems for outdoor, nonpotable uses and groundwater
10 recharge.

11 10576. (a) The board shall initiate a stakeholder process to
12 develop recommendations for policies of state and local agencies
13 that would encourage and facilitate the *voluntary* installation and
14 use of rainwater capture systems for outdoor, nonpotable uses and
15 groundwater recharge, and capture of stormwater by public
16 agencies.

17 (b) The board shall *develop the recommendations through a*
18 *stakeholder process. The board shall* invite all stakeholders, and
19 federal, state, and local agencies concerned about rainwater and
20 stormwater capture to participate in the process described in
21 subdivision (a). ~~The board may appoint a local agency or another~~
22 ~~state agency to lead the stakeholder process if that agency can~~
23 ~~provide funding for the process, but the~~ *shall appoint a chairperson*
24 *to oversee the stakeholder process. The Director of Water*
25 *Resources shall appoint a cochair to cofacilitate the stakeholder*
26 *process. The board shall retain responsibility for the final*
27 *recommendations developed through the process.*

28 (c) In developing the recommendations, ~~the stakeholder process~~
29 *board and the stakeholders* shall address issues arising out of
30 rainwater capture for nonpotable uses, including, but not limited
31 to, all of the following:

32 (1) Vector control.

33 (2) Water supply augmentation.

34 (3) Water quality, *including but not limited to both of the*
35 *following:*

36 (A) *First rain contamination hazards.*

37 (B) *Potential changes in the concentration, quantity, or*
38 *abundance of runoff pollution from increased rainwater collection.*

39 (4) Safe installation, maintenance, and operation of rainwater
40 capture systems.

1 (5) Water rights.

2 (6) Vegetation and habitat management in flood control facilities
3 and rainwater or stormwater capture systems.

4 (7) *Effects on downstream, in-stream flow volumes and native*
5 *fish and wildlife.*

6 ~~(7)~~

7 (8) Consistency with building standards requirements, including
8 the building drainage requirements of Chapter 11 of the California
9 Plumbing Code (Part 5 (commencing with Section 101.0) of Title
10 24 of the California Code of Regulations).

11 ~~(8) Potential for indoor, nonpotable use of captured rainwater.~~

12 (9) *Potential for indoor, nonpotable use of captured rainwater*
13 *for toilets and laundry.*

14 ~~(9)~~

15 (10) Financial and tax incentives to encourage greater capture
16 of rainwater and stormwater.

17 ~~(10)~~

18 (11) Necessary monitoring and reporting of rainwater and
19 stormwater capture programs.

20 ~~(11)~~

21 (12) Outcomes of existing programs that promote rainwater or
22 stormwater capture.

23 (d) The board shall publish recommendations developed
24 pursuant to this section on its Internet Web site by December 31,
25 2011, *and shall notify the fiscal committees and the appropriate*
26 *policy committees of the Legislature when these recommendations*
27 *become available on the Internet Web site.* These recommendations
28 may include recommendations for additional legislation, including
29 amendments to this part, recommendations for building standards
30 for the installation and use of rainwater capture systems, or other
31 state agency actions to implement the recommendations.

32 (e) The stakeholder process, including the development of
33 recommendations, pursuant to this section, is not subject to the
34 rulemaking provisions of the Administrative Procedure Act
35 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
36 Division 3 of Title 2 of the Government Code).

37 10577. (a) (1) If the stakeholder process pursuant to Section
38 10576 results in recommendations for building standards for the
39 installation and use of rainwater capture systems, the board, on or
40 before December 31, 2011, shall submit those recommendations

1 to the California Building Standards Commission and the
2 Department of Housing and Community Development for approval
3 and adoption in the California Green Building Standards Code
4 (Part 11 (commencing with Section 101) of Title 24 of the
5 California Code of Regulations) or the California Plumbing Code
6 (Part 5 (commencing with Section 101.0) of Title 24 of the
7 California Code of Regulations).

8 (2) In developing recommendations for building standards for
9 the installation and use of rainwater capture systems pursuant to
10 the stakeholder process, the process shall include consideration,
11 and incorporation, if appropriate, of the rainwater-~~catchment~~
12 *capture* system provisions contained in the 2010 Green Plumbing
13 and Mechanical Code Supplement published by the International
14 Association of Plumbing and Mechanical Officials and any other
15 proposals that the stakeholders deem appropriate.

16 (b) On or before July 1, 2013, the California Building Standards
17 Commission and the Department of Housing and Community
18 Development shall consider any building standards
19 recommendations submitted in accordance with subdivision (a)
20 for adoption in an annual code update to the California Green
21 Building Standards Code (Part 11 (commencing with Section 101)
22 of Title 24 of the California Code of Regulations) or the California
23 Plumbing Code (Part 5 (commencing with Section 101.0) of Title
24 24 of the California Code of Regulations).

25 10578. In addition to policies developed pursuant to Section
26 10576, the board may adopt its own policies or guidelines related
27 to *voluntary* rainwater and stormwater capture, if the board finds
28 that those policies or guidelines would encourage and facilitate
29 greater capture of rainwater and stormwater *while protecting public*
30 *and environmental health*.